

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

MACMILLAN PUBLISHING GROUP, LLC,

Plaintiff,

v.

DINH THI DIEP,

Defendant.

Case No. 22-cv-00839-VSB

**DEFAULT JUDGMENT AND
PERMANENT INJUNCTION**

VERNON S. BRODERICK, United States District Judge:

Plaintiff Macmillan Publishing Group, LLC (“Macmillan”) initiated this action on January 31, 2022 against Defendant Dinh Thi Diep. ECF No. 1. Plaintiff served the Complaint and Summons on Defendant by email pursuant to the Court’s February 18, 2022 Order. *See* Decl. or Service, ECF No. 14. Defendant did not file an Answer or otherwise respond to the Complaint. On Plaintiff’s supporting papers, on March 17, 2022, the Clerk of the Court entered a Certificate of Default against Defendant. ECF No. 17.

On April 21, 2022, Plaintiff submitted a proposed Order to Show Cause, a memorandum of law, and declarations in support of its request for a default judgment and permanent injunction against Defendant pursuant to Rules 55(b) and 65(d) of the Federal Rules of Civil Procedure and 17 U.S.C. § 502(a) of the Copyright Act of 1976.

Having reviewed the Complaint, Plaintiff’s memorandum of law in support of the Order to Show Cause, the supporting declarations, and the entire record herein, the Court HEREBY FINDS that:

A. Plaintiff is a trade publisher in the United States. Plaintiff's publications include print books, ebooks, and audiobooks that are widely available in the marketplace to consumers for a fee and sold through legitimate distributors and physical and online bookstores.

B. Defendant operates a channel on YouTube.com, under the username "OTaster," located at <https://www.youtube.com/user/OTaster> (the "Channel"), on which Defendant has posted videos containing full, unauthorized copies of three audiobooks from the well-known series of epic fiction, *The Wheel of Time: New Spring*, *The Eye of the World*, and *The Great Hunt* ("Plaintiff's Works");

C. Defendant has been properly served in this action with the Complaint and Summons;

D. Because Defendant has not filed an Answer, otherwise responded to the Complaint, or otherwise appeared in this action, the Clerk of Court entered default against Defendant on March 17, 2022;

E. The Court has personal jurisdiction over the Defendant pursuant to N.Y. C.P.L.R § 302(a)(1) and/or § 302(a)(3);

F. Plaintiff has established the ownership element of its claims for infringement of the copyrights in Plaintiff's Works, which are further described in Exhibit A to the Complaint (attached hereto as Appendix A);

G. Defendant has willfully infringed Plaintiff's exclusive rights in copyright in Plaintiff's Works under 17 U.S.C. § 106 in connection with the knowing and unauthorized reproduction, distribution, public display, public performance, and/or preparation of derivative works of/from Plaintiff's Works;

H. Defendant's willful copyright infringement has caused Plaintiff irreparable harm; and

I. As a result of Defendant's unlawful conduct, Plaintiff is entitled to the entry of a final judgment and permanent injunction against Defendant as set forth herein.

NOW, THEREFORE, IT IS HEREBY ORDERED, in accordance with Federal Rule of 65(d) and 17 U.S.C. § 502(a) that Defendant, Defendant's officers, agents, servants, employees, and attorneys, and all those in active concert or participation with any of them, who receive actual notice of this Order, are permanently enjoined from directly or indirectly infringing on the copyrights owned or exclusively licensed by Plaintiff, or any parent, subsidiary, or affiliate of Plaintiff, whether now in existence or later created ("Plaintiff's Copyrights").

Without limiting the foregoing, IT IS FURTHER ORDERED that Defendant, Defendant's officers, agents, servants, employees, and attorneys, and all those in active concert or participation with any of them, who receive actual notice of this Order, are permanently enjoined from engaging in any of the following acts:

- 1) Copying, reproducing, manufacturing, importing, exporting, downloading, making available for download, uploading, linking to, indexing, transmitting, streaming, distributing, selling, offering for sale, advertising, marketing, promoting, publicly displaying or performing, or otherwise exploiting any content protected by Plaintiff's Copyrights without Plaintiff's express written authorization;
- 2) Enabling, facilitating, permitting, assisting, soliciting, encouraging, or inducing the copying, reproduction, manufacture, download, making available for download, upload, linking to, indexing, transmission, streaming, distribution, sale, offering for sale, advertisement, marketing, promotion, public display or performance, or other exploitation of any content protected by Plaintiffs' Copyrights without Plaintiffs' express written authorization; and
- 3) Using, hosting, operating, maintaining, creating, or registering any computer server, website, domain name, domain name server, cloud storage, e-commerce platform, online advertising service, search engine, social media platform, or payment processing or other financial service to infringe or to

enable, facilitate, permit, assist, solicit, encourage, or induce the infringement of Plaintiffs' Copyrights.

IT IS FURTHER ORDERED that Defendant shall deliver to Plaintiff for destruction all copies of Plaintiff's Works, or derivative works thereof, in Defendant's possession, custody, or control, and all devices by means of which such copies have been created, pursuant to 17 U.S.C. § 503.

IT IS FURTHER ORDERED that this Court shall retain jurisdiction over the parties and the subject matter of this litigation for the purpose of interpretation and enforcement of this Permanent Injunction.

DEFAULT JUDGMENT is hereby entered in favor of Plaintiff against Defendant Dinh Thi Diep d/b/a "OTaster." The case is referred to the Magistrate Judge for an inquest with respect to the nature of the judgment to be entered.

SO ORDERED this 8 day of December 2022.



The Honorable Vernon S. Broderick
United States District Judge

Appendix A

Macmillan Trade Publishing Group, LLC v. Dinh Thi Diep
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Copyrighted Works

Registration Date	Copyright Registration #	United States Copyright Office Public Catalog Title
1990-03-02	TX0002767431	The Eye of the world / Robert Jordan [pseud. of James O. Rigney]
1990-11-26	TX0002954454	The Great hunt / Robert Jordan [pseud.]
2004-01-23	TX0005834626	New spring : the novel / Robert Jordan
2004-01-14	SR0000345309	New spring : the novel / Robert Jordan.